

**MEDICAL LICENSING BOARD OF INDIANA
INDIANA GOVERNMENT CENTER SOUTH
402 WEST WASHINGTON STREET
ROOM W064
INDIANAPOLIS, INDIANA 46204**

MINUTES OF AUGUST 26, 2010

Stephen Huddleston, J.D., President called the meeting to order at 9:40 a.m. and declared a quorum in accordance with IC 25-22.5.

Members Present: Stephen Huddleston, J.D., Consumer
Member, President
Robert Allen, M.D.
Lynda Smirz, M.D.
Worthe Holt, Jr., M.D.
Bharat Barai, M.D., Vice President
Donald Vennekotter, M.D., Secretary

Staff Present: Kristen Kelley, Board Director
Professional Licensing Agency
Jody Edens, Assistant Board Director
Professional Licensing Agency
James Schmidt, Deputy Attorney General
Office of the Attorney General

The Board voted to adopt the agenda as amended.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Worthe Holt, Jr., M.D, Bharat Barai, M.D., Donald Vennekotter, M.D.

Allen/Smirz, 6/0/0
Motion carries

The Board voted to adopt the minutes of the July 22, 2010 meeting.

Barai/Vennekotter, 6/0/0
Motion carries

RULE ADOPTION

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

None of the rules have an impact on small businesses.

No public comments were received.

After discussion the Board moved to re-adopt the following rules that fall within the physical therapy practice act:

- 844 IAC 6-1-2 Definitions
- 844 IAC 6-1-4 Accreditation of educational programs
- 844 IAC 6-3 Admission to Practice
- 844 IAC 6-4-3 Reinstatement of delinquent license
- 844 IAC 6-6-3 Duties of suspended licensees, certificate holders
- 844 IAC 6-6-4 Protection of patients' interests
- 844 IAC 6-7-2 Standards of professional conduct and competent practice

Barai/Smirz, 6/0/0
Motion carries

PERSONAL APPEARANCES

INITIAL/RENEWAL APPLICANTS

The following appeared before the full Board for their scheduled personal appearances and were sworn in under oath:

Amarjit Bains, M.D. – Dr. Bains appeared before the Board regarding her work history on her re-application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

Dr. Bains originally held license number 01029951A, which was revoked by the Board in April 2003. By law, a practitioner may not reapply for a new license until seven (7) years after the revocation.

Dr. Bains submitted information on CME's she has obtained in the past years.

During discussion the Board suggested to Dr. Bains that she look into a mini fellowship and bring the plan to the Board along with the person that would be supervising her fellowship. They also suggested she take the SPEX examination and obtain a current psychiatric evaluation by a Board certified psychiatrist.

Dr. Bains listened to their suggestions and requested to TABLE her application so she can look into the Board's suggestions.

After discussion, the Board moved to TABLE Dr. Bains' application up to one (1) year.

Allen/Barai, 5/0/0
Motion carries

Jennifer Whirley-Diaz, M.D. – Dr. Whirley-Diaz appeared before the Board regarding her work history on her re-application for licensure and was not represented by counsel.

Dr. Whirley-Diaz appeared before the Board in June 2010 regarding this issue. The Board indicated they would consider a provisional license if she would bring back the following information:

- Letter from Anthem giving a description of job duties in which Dr. Whirley-Diaz would be performing from them once she is licensed.
- A written individualized re-entry program plan. Give details of what she plans to do beginning June 2011.

Dr. Whirley-Diaz informed the Board that Anthem was not willing to employ her with a provisional license. She presented another possible plan of weight management with Dr. Diaz (her husband) as her supervisor.

The Board reviewed the plan of weight management and was not in favor of it. The Board indicated to Dr. Whirley-Diaz that she could table her application until she comes up with a plan of reentry.

Dr. Whirley-Diaz indicated to the Board that she did wish to table her application.

After discussion the Board moved to TABLE Dr. Whirley-Diaz's application for up to one (1) year.

CONSENSUS
Motion carries

Kurt Osmundson, D.O. – Dr. Osmundson appeared before the Board regarding positive responses on his re-application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

Dr. Osmundson's license in Illinois is currently on probation until April 2013 due to issues of substance abuse.

During discussion with the Board, Dr. Osmundson indicated he would agree to a license issued on probation.

After discussion the Board moved to issue Dr. Osmundson's license on agreed PROBATION with terms and conditions.

Vennekotter/Smirz, 6/0/0
Motion carries

Karl Ann Kirby, M.D. – Dr. Kirby appeared before the Board regarding a waiver of the USMLE three (3) attempts rule and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

844 IAC 4-4.5-12(2) states: An applicant may have a maximum of three (3) attempts to pass each step of the USMLE. Therefore, upon the third seating of each step of the exam, the applicant must obtain a passing score.

Dr. Kirby passed step 2 of the USMLE on her fifth (5th) attempt.

After discussion, the Board moved to GRANT the waiver of the three (3) attempts rule based upon the following:

- Board certification in Family Medicine
- Active license in Illinois
- Letters of recommendation from:
 1. Lisa Richardson, M.D., MSPH
 2. Christen Morrow, M.D., East Chicago Community Health Center
 3. Gerri Browning, CMO, East Chicago Community Health Center
- Appearance of Gerri Browning, CMO, East Chicago Community Health Center.
- Three (3) year employment agreement with East Chicago Community Health Center which is federally funded for underserved patients.
- Dr. Kirby assured the Board she will fulfill her commitment to the Health Center.
- Ms. Browning agreed to send a letter to the Board yearly keeping the Board informed of her employment status and the fact that she is still serving in underserved areas.
- No malpractice issues and no action taken in any state.

Barai/Smirz, 6/0/0

Motion carries

Keith Kessler, M.D. – Dr. Kessler appeared before the Board regarding a waiver of the two (2) years post graduate training and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

IC 25-22.5-3-2 states in part: (2) submits evidence satisfactory to the board that prior to passing the examination the applicant has successfully completed a minimum of at least (2) two years of postgraduate training in a hospital or an institution located in the US or Canada which meets the standards approved by the nationally recognized medical or osteopathic accrediting bodies in the US for the purpose of graduate training and is approved by the board;....

Dr. Kessler graduated from the American University of the Caribbean medical school, requiring him to have two (2) years of post graduate training. Dr. Kessler has only had one (1) year of post graduate training.

After discussion the Board moved to GRANT the waiver of the two (2) years postgraduate training based upon the following:

- Twenty-nine (29) years of successful practice in the State of Kentucky
- Active Kentucky license
- Practicing full time the past twenty-nine (29) years
- No disciplinary actions in any states
- No malpractice actions

Smirz/Barai, 6/0/0
Motion carries

Joseph Lopez, M.D. – Dr. Lopez appeared before the Board regarding positive responses on his initial application for licensure and was not represented by counsel.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Donald Vennekotter, M.D.

Dr. Lopez appeared before the Board in July 2010 and the Board requested that he obtain additional information. Specifically they requested letters commenting on his dismissals from the four facilities in which he lost privileges. They also requested a letter from his future employer commenting on the fact that they were aware of his dismissals from the four facilities and were still willing to employ him.

Dr. Lopez requested letters from all four facilities and an overall review of the letters indicated that he was released due to disruptive and inappropriate behavior. None of the dismissal concerned quality of care.

After discussion, the Board moved to APPROVE Dr. Lopez's application for licensure.

Holt/Vennekotter, 4/1/0 with Dr. Smirz objecting
Motion carries

ADMINISTRATIVE HEARINGS

The following hearing was continued:

Cynthia D. Ellis, M.D., License No. 01034480A, Cause No. 2007 MLB 0027

Patrick Joseph Cadigan, M.D., License No. 01066319A, Cause No. 2010 MLB 0008

Respondent did not appear in person and was not represented by counsel regarding a Disciplinary Hearing scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

The State requested that a notice of proposed default be issued.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to issue a NOTICE OF PROPOSED DEFAULT.

Allen/Vennekotter, 6/0/0
Motion carries

Albert Chung Lee, M.D., License No. 01042481A, Cause No. 2009 MLB 0019

Respondent did appear in person and was represented by counsel Barclay Wong regarding a Request to Withdraw Order of Probation scheduled before the Board. The State of Indiana was represented by Thomas McGee, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

Dr. Lee was placed on probation September 3, 2009, due to some boundary issues.

Dr. Lee is compliant with all terms of his probationary order.

After having considered the evidence presented and taking official notice of its file in this matter the Board moved to WITHDRAW the order of probation.

Allen/Vennkotter, 6/0/0
Motion carries

Alan H. Olefsky, M.D., License No. 01047699A, Cause No. 2007 MLB 0030

Respondent did appear in person and was not represented by counsel regarding a Petition for Modification of Probation scheduled before the Board. The State of Indiana was represented by Elizabeth Kiefner-Crawford, Deputy Attorney General and the court reporter sworn in for this matter was Sherri Rutledge with Rutledge Independent Reporting.

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Bharat Barai, M.D, Donald Vennekotter, M.D.

Dr. Olefsky is requesting to eliminate personal appearance before the Board from the terms of his probationary order. He currently appears twice a year.

His sobriety date is January 2007.

He stated that he is in complete compliance with his Illinois probation.

After having considered the evidence presented and taking official notice of its file in this matter, the Board moved to GRANT Dr. Olefsky's request to eliminate his personal appearances before the Board.

3/3/0, with Dr's Holt, Allen and Mr. Huddleston objecting
Motion fails

After further discussion the Board moved to MODIFY Dr. Olefsky's personal appearances before the Board to one (1) time per year.

Holt/Allen, 6/0/0
Motion carries

DISCUSSION

Expedited Partner Therapy (EPT) – The Board set this matter to discuss the possibility of a rule making process regarding EPT.

The following public comments were heard:

Joan Duvwe, M.D., Indiana State Board of Health – Dr. Duvwe stated that in response to an email sent out by the State Board of Health they received a total of 93 emails supporting EPT and 1 email requesting additional information and zero opposed to EPT. Of those 93 emails, 76 were from MD's, 6 from DO's, 8 from APN's and 3 unknown/other.

Michael Rinebold, Director of Government Relations at Indiana State Medical Association requested that the Board take notice of the concerns from the ISMA members that he submitted previously.

Mike Claphan, from the Indiana Osteopathic Association, informed the Board that his members are opposed to EPT.

After discussion, the Board moved to go forward with drafting rule changes to incorporate EPT. They requested that Ms. Kelley put together sample language to start with and to look at what other states have done in their rule making regarding EPT.

Smirz/Barai, 6/0/0
Motion carries

REVIEW OF INITIAL/RENEWAL APPLICATIONS

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Bharat Barai, M.D., Lynda Smirz, M.D, Donald Vennekotter, M.D.

The Board reviewed the positive response information on the following applicants and approved them for licensure: Allen/Smirz, 6/0/0 Motion carries

Robert Beatty, M.D.
Jamie Jacobshon, M.D.

Gay Fried, M.D.
Karl Pryor, M.D.

The Board reviewed the positive response information on the following applicants and requested them to appear before the Board: Smirz/Barai, 6/0/0 Motion carries

Mohammed Mazumder, M.D.

Anthony Sarkisian, D.O

The Board reviewed the documentation and file regarding licensure as an Acupuncture on Xiaoming Jin and DENIED the application based upon the following:

- Mr. Jin is not certified by the NCCAOM.
- Mr. Jin's acupuncture school Zhejiang University of Traditional Chinese Medicine is not approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

IC 25-2.5-2-1(5) states: Show to the satisfaction of the board that the applicant has:

- (A) Current active status as a diplomate in acupuncture of the National Certification Commission for Acupuncture and Oriental Medicine.
- (B) Successfully complete a three (3) year postsecondary training program or acupuncture college program that:
 - (i) is accredited by;
 - (ii) is a candidate for accreditation by; or
 - (iii) meets the standards of;The National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine; and.....

Allen/Smirz, 6/0/0
Motion carries

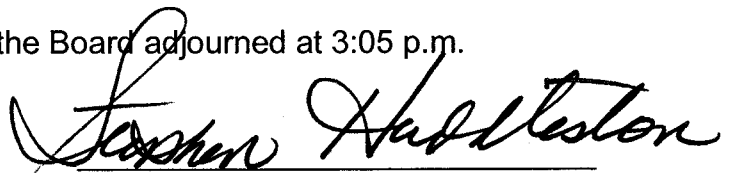
PHYSICIAN ASSISTANT PRESCRIPTIVE AUTHORITY APPLICATIONS

The Board reviewed and approved the following Physician Assistant Prescriptive Authority applications: Allen/Smirz, 5/0/0 Motion carries

Participating Board Members: Stephen Huddleston, J.D., Robert Allen, M.D., Worthe Holt, Jr., M.D., Lynda Smirz, M.D., Donald Vennekotter, M.D.

Emily Adams, 10000681A
Joseph Wangerin, 10001103A
Robin Tudor, initial app
Melanie Tolson, 10001141A
Lauren Kaiser, 10001100A
Renita White, 10001123A
Kami Shaw, 10000476A
Shelley Schuler, initial app
Maria Carson, 10000559A
Julie Sharrer, 10001058A
Jennifer Cyrzan, 10000111A

There being no further business the Board adjourned at 3:05 p.m.

A handwritten signature in cursive script, reading "Stephen Huddleston".

Stephen Huddleston, J.D., President

Donald Vennekotter, M.D., Secretary